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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,420

03/23/2004

Craig A. Barrile-Josephson

P03137

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23702 7590 09/19/2007  
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EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

09/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/807,420

Applicant(s)

BARRILE-JOSEPHSON ET AL.

Examiner

Michael G. Mendoza

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 25-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8, 10, 20-22, 28-31, 36 and 37 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 9, 11-19, 23, 24, and 32-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/28/2004, 11/15/2004</u> .                                   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the four bar-link drive must be shown or the feature(s) canceled from the claim(s). From the drawings the examiner can only locate two. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

2. Claim 11-19 and 32-35 are objected to because of the following informalities:

See above drawing objection. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6, 7, 8, 10, 20, 21, 28, 29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hellenkamp et al. 6051009.

5. Hellenkamp teaches a microkerotome for use in ophthalmic surgery comprising: a bar-link drive; a cutting head; a fixation ring; wherein the bar-link drive moves the cutting-head at least partially across the fixation ring; a controller; wherein the drive includes a left/right selector; a cutting-head locator; wherein the cutting-head includes indents on opposite sides of the cutting-head; wherein the fixation ring includes structure extending beyond a bottom-most part of an annular ring and raised about the bottom-most part of the annular ring; a motor 100; and a translation stop 65.

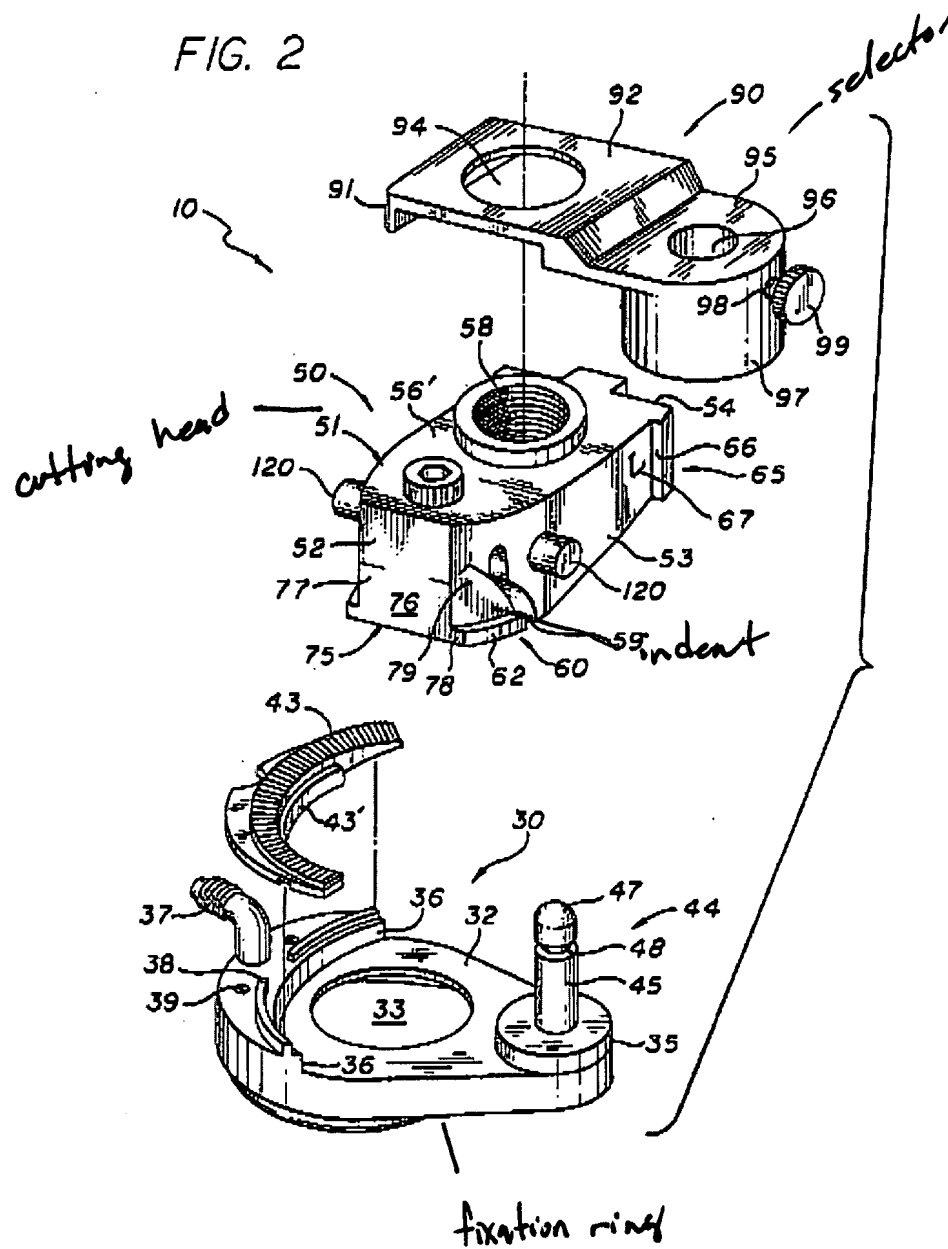


FIG. 9

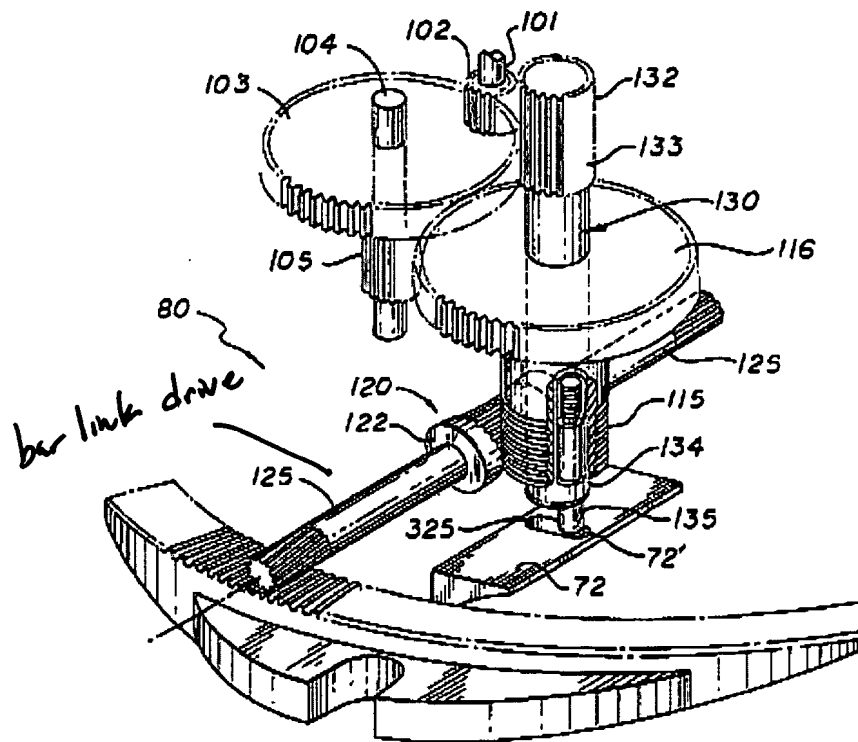
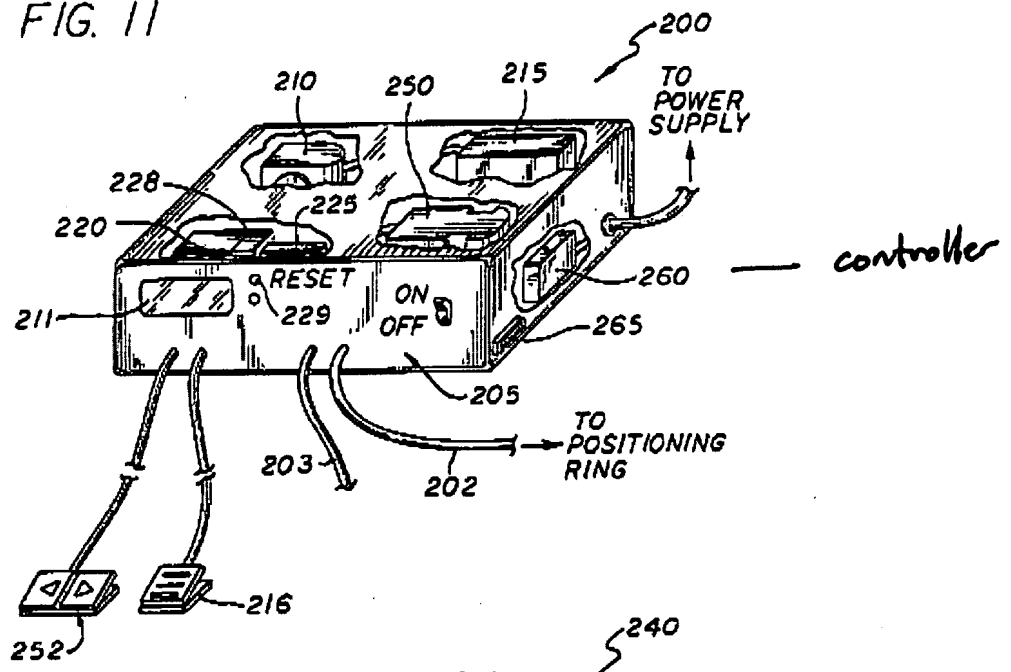


FIG. 11



***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

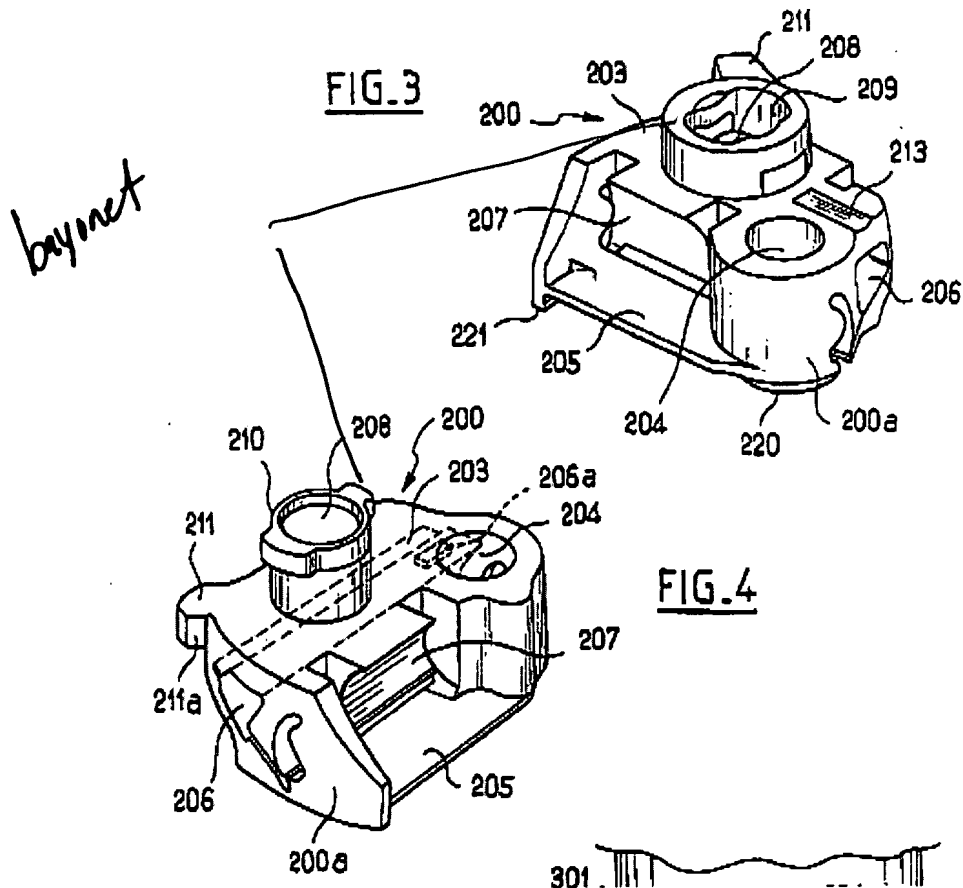
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 30, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellenkamp et al. in view of Aufaure et al. 6641594.

8. Hellenkamp et al. teaches the microkeratome of claims 1 and 28. It should be noted that Hellenkamp et al. fail to teach a snap-on connector requiring less than 360 degrees of rotation to the cutting-head relative to the drive. Hellenkamp et al. teaches the use of a threaded connection.

9. Aufaure et al. teaches a device with a common snap-on connector requiring less than 360 degrees of rotation (it is well known in the art of connectors the bayonet type connections require less than 360 degrees of rotation to complete connection).

Therefore it would have been obvious to one having ordinary skill in the art to use a bayonet type connection as taught by Aufaure et al. as an alternative to the treaded type connection Hellenkamp et al. because they are mechanical expedients of each other.



10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hellenkamp et al. in view of Farris et al. 6514266.

11. Hellenkamp et al. teach the microkeratome of claim 1. It should be noted that Hellenkamp et al. fails to teach a first motor for automatically driving the cutting head assembly and a second motor for oscillation a blade assembly with the cutting head assembly. Hellenkamp et al. teaches the use of one motor for driving and oscillation.

12. Farris et al. teaches a device with common first and second motors. Farris et al. teaches the use of a single motor for both driving and oscillation. However, Farris et al. also teaches the use of a first motor for driving and a second motor for oscillation as an alternative (col. 2, lines 40-51). Therefore, it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to use two motors; one for driving and one for oscillating, as opposed the one motor for both functions as taught by Hellenkamp et al.

***Allowable Subject Matter***

13. Claims 4, 5, 9, 23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MM3

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A handwritten signature in black ink, appearing to read "M J Hayes", written in a cursive style.

MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER